

Superseded 7/1/2015

53A-6-306 Purpose, powers, and duties of UPPAC.

(1) UPPAC shall:

- (a) adopt rules consistent with applicable law and board rules to carry out its responsibilities under this chapter;
- (b) make recommendations to the board and professional organizations of educators:
 - (i) concerning standards of professional performance, competence, and ethical conduct for persons holding licenses issued by the board; and
 - (ii) for the improvement of the education profession;
- (c) establish procedures for receiving and acting upon reports or allegations regarding immoral, unprofessional, or incompetent conduct, unfitness for duty, or other violations of standards of ethical conduct, performance, or professional competence;
- (d) investigate any allegation of sexual abuse of a student or a minor by an educator; and
- (e) establish the manner in which hearings are conducted and reported, and recommendations are submitted to the board for its action.

(2)

- (a) UPPAC may conduct or authorize investigations relating to any matter before UPPAC.
- (b) Those investigations shall be independent of and separate from any criminal investigation.
- (c) In conducting an investigation UPPAC or an investigator operating under UPPAC authorization may:
 - (i) administer oaths and issue subpoenas which may be enforced through the state district courts;
 - (ii) receive any evidence related to an alleged offense, including sealed or expunged records released to the board under Section 77-40-109; and
 - (iii) where reasonable cause exists, initiate a criminal background check on a license holder.
- (d)
 - (i) A license holder shall receive written notice if a fingerprint check is required as a part of the background check.
 - (ii) Fingerprints of the individual shall be taken, and the Law Enforcement and Technical Services Division of the Department of Public Safety shall release the individual's full record, as shown on state, regional, and national records, to UPPAC.
 - (iii) UPPAC shall pay the cost of the background check except as provided under Section 53A-6-401, and the money collected shall be credited to the Law Enforcement and Technical Services Division to offset its expenses.

(3) UPPAC is entitled to a rebuttable evidentiary presumption that a person has committed a sexual offense against a minor child if the person has:

- (a) after having had a reasonable opportunity to contest the allegation, been found pursuant to a criminal, civil, or administrative action to have committed a sexual offense against a minor child;
- (b) pled guilty to a reduced charge in the face of a charge of having committed a sexual offense against a minor child, entered a plea of no contest, entered into a plea in abeyance resulting in subsequent dismissal of such a charge, or failed to defend himself against such a charge when given reasonable opportunity to do so; or
- (c) voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

(4) In resolving a complaint UPPAC may:

- (a) dismiss the complaint;
- (b) issue a warning or reprimand;

- (c) issue an order of probation requiring an educator to comply with specific conditions in order to retain a license;
 - (d) enter into a written agreement requiring an educator to comply with certain conditions;
 - (e) recommend board action such as revocation or suspension of a license or restriction or prohibition of licensure; or
 - (f) take other appropriate action.
- (5) UPPAC may not:
- (a) participate as a party in any dispute relating to negotiations between a school district and its educators;
 - (b) take action against an educator without giving the individual an opportunity for a fair hearing to contest the allegations upon which the action would be based; or
 - (c) take action against an educator unless it finds that the action or the failure of the educator to act impairs the educator's ability to perform the functions of the educator's position.